

CALON

EA 13

-H26



# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 304

DATE: Monday, April 29, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416) 963-1249

**EARR**  
ASSOCIATES &  
REPORTING INC.

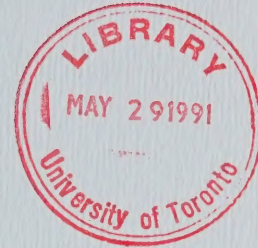
(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4





CALON  
EAB  
-H26



# ENVIRONMENTAL ASSESSMENT BOARD

---

VOLUME: 304

DATE: Monday, April 29, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416) 963-1249

**EARR &  
ASSOCIATES  
REPORTING INC.**

**(416) 482-3277**

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4





HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable  
Jim Bradley, Minister of the Environment,  
requiring the Environmental Assessment  
Board to hold a hearing with respect to a  
Class Environmental Assessment (No.  
NR-AA-30) of an undertaking by the Ministry  
of Natural Resources for the activity of  
Timber Management on Crown Lands in  
Ontario.

-----

Hearing held at the offices of the Ontario  
Highway Transport Board, Britannica Building,  
151 Bloor Street West, 10th Floor, Toronto,  
Ontario, on Monday, April 29, 1991,  
commencing at 9:00 a.m.

-----

VOLUME 304

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761116525049>

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY	)	
MR. B. CAMPBELL	)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE	)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY	)	ASSOCIATION
MR. H. TURKSTRA		ENVIRONMENTAL ASSESSMENT BOARD
MR. J.E. HANNA	)	ONTARIO FEDERATION
DR. T. QUINNEY	)	OF ANGLERS & HUNTERS
MR. D. HUNTER		NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI	)	
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN	)	
MS. B. SOLANDT-MAXWELL	)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MS. S.V. BAIR-MUIRHEAD	)	
MR. C. REID	)	ONTARIO METIS &
MR. R. REILLY	)	ABORIGINAL ASSOCIATION
MR. P. SANFORD	)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS	)	LIMITED and SPRUCE FALLS
MR. D. WOOD	)	POWER & PAPER COMPANY
MR. D. MacDONALD		ONTARIO FEDERATION OF LABOUR





APPEARANCES (Cont'd):

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. R. EDWARDS	)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER	)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON	)	NORTHWATCH
MS. B. LLOYD	)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK	)	MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL	)	GREAT LAKES FOREST
MR. S.M. MAKUCH	)	
MR. D. CURTIS	)	ONTARIO PROFESSIONAL
MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Please be seated.

3 Good morning. I would like to make an  
4 exhibit something we have received from the Ministry of  
5 Natural Resources in fulfillment of an undertaking  
6 given during the evidence of Mr. Boisineault in Sault  
7 Ste. Marie on August 29, 1990 and this is a map of  
8 areas selected for harvest operations 1990 to 95 and  
9 1989 to 1990 for eight townships in the northern part  
10 of the Sault Ste. Marie District. This map is on a  
11 scale of 1:50,000. We will make this 1795.

12 ---EXHIBIT NO. 1795: Map of areas selected for harvest  
13 operations, 1990-95 and 1989-  
14 1990 for eight townships in the  
15 northern part of the Sault Ste.  
Marie District, at a scale of  
1:50,000.

16 MADAM CHAIR: And a second matter of  
17 business before we get on with the evidence this  
18 morning is we have received letters -- or Mr. Herman  
19 Turkstra has received letters from the parties with  
20 respect to whether the Board will be asked to hear  
21 arguments about jurisdictional or legal matters during  
22 the evidence of the native communities in the upcoming  
23 four or five months, and all the parties have indicated  
24 that they will not be raising these issue in the  
25 communities where we hear the evidence and we will not

1 be doing it in Toronto before we leave. If there are  
2 matters they will be left for argument at the end of  
3 the cases.

4 MR. CUMING: Thank you, Madam Chair, Mr.  
5 Martel.

6 This morning the Canadian Association of  
7 Profession Heritage Consultants will be presenting a  
8 brief respecting the Class EA that's before the Board.  
9 We do not have legal counsel. We anticipate that our  
10 presentation will be approximately one hour.

11 What I thought I would do is, first of  
12 all, introduce myself. My name is David Cuming,  
13 spelled C-u-m-i-n-g. I am a Board Director of the  
14 Canadian Association of Profession Heritage  
15 Consultants, and I am joined today by Ann Balmer to my  
16 left who is also a member of the Canadian Association  
17 of Professional Heritage Consultants.

18 MADAM CHAIR: Mr. Cuming, normally at the  
19 beginning of a piece of evidence that we hear we try to  
20 ascertain how long we will be.

21 You have indicated that you expect to be  
22 an hour going through the witness statement that the  
23 Board received some time ago and we have gone through  
24 it carefully.

25 I would just ask the parties how long



1       they would expect to be in cross-examination.

2                       Mr. Cassidy?

3                       MR. CASSIDY: Subject to what we hear in  
4 oral evidence, based on the written material I expect  
5 to be ten minutes or less, Madam Chair.

6                       MADAM CHAIR: Thank you, Mr. Cassidy.

7                       Ms. Seaborn?

8                       MS. SEABORN: Madam Chair, I have with me  
9 a representative of the Ministry of Culture and  
10 Communications, Mr. Carruthers.

11                      What I would like to do is when the  
12 evidence-in-chief is concluded is consult with Mr.  
13 Carruthers briefly. We may have one or two questions.  
14 So we will be five minutes or so, if we have any at  
15 all.

16                      MADAM CHAIR: Ms. Blastorah?

17                      MS. BLASTORAH: Again, subject to what  
18 the evidence is this morning that may be in addition to  
19 what we read I anticipate perhaps 20 minutes.

20                      MADAM CHAIR: All right, thank you. It  
21 sounds as though we are going to be finished by the  
22 noon hour.

23                      What we do at the hearings as well is  
24 swear in our witnesses. Mr. Cuming and Ms. Balmer, if  
25 you would approach us, please.

1                                 DAVID CUMING,  
2                                 ANN BALMER; Sworn

3                                 MR. CUMING: Prior to going into the  
4 details of the witness statement, I will briefly go  
5 through my resume which is contained in the appendices  
6 at the rear of the document.

7                                 I have a Bachelor's of Science Honours  
8 Degree in Town planning studies from the University of  
9 Wales, Institute of Science and Technology obtained in  
10 1973. I have a post-graduate diploma in town planning  
11 also from the University of Wales, again in 1975.

12                                I am a member of the Canadian Institute  
13 of Planners, I am a member of the Royal Plan Planning  
14 Institute, I am a member of the Canadian Association of  
15 Professional Consultants.

16                                Since 1987, I have been the principal  
17 consultant with my own firm, David Cuming and  
18 Associates, as well as a principal consultant and  
19 partner with a firm Unterman McPhail Cuming Associates.  
20 We are a firm of heritage conservation and planning  
21 consultants that undertakes a wide variety of heritage  
22 conservation planning work for both public and private  
23 clients.

24                                We have undertaken a number of heritage  
25 studies comprising heritage resource inventories,



1 heritage assessments and heritage conservation and  
2 district studies for a variety of clients. These have  
3 included Ontario Hydro, the Ministry of Transportation  
4 and a variety of other governments agencies.

5 From 1978 to 1987, I was employed by the  
6 Ministry of Culture and Recreation that then became the  
7 Ministry of Citizenship and Culture where I was  
8 employed as a heritage planner and then renamed  
9 conservation officer in the heritage branch.

10 Again, as a planner with the heritage  
11 branch I was responsible for a variety of duties and  
12 activities. I participated in a number of heritage  
13 studies, a variety of types of heritage features. I  
14 was involved in the preparation of a case study of an  
15 environmental assessment for the Ministry of  
16 Transportation on Highway 54.

17 I was involved with the assessment of  
18 gold mine sites in Gold Rock just south of Dryden for  
19 the Ministry of Natural Resources. I participated in  
20 the review of numerous official plans, the Niagara  
21 Escarpment planning applications. I also participated  
22 in the review of many environmental assessments, both  
23 Class EA undertakings and specific undertakings.

24 Prior to that, I worked with the Town of  
25 Oakville as a planning consultant basically engaged in

1 a number of traditional land use and planning  
2 activities. I have been sworn before a number of  
3 Boards as an expert witness in heritage conservation  
4 and planning. I have been sworn before the Ontario  
5 Municipal Board, the Environmental Assessment Board,  
6 the Consolidated Hearings Board and several hearings  
7 before the Niagara Escarpment Commission.

8 I will turn over to Ann Balmer who will  
9 detail her resume.

10 MS. BALMER: My name is Ann Balmer. I  
11 received my Masters of Arts in anthropology from the  
12 University of Manitoba with a specialty in archaeology  
13 in 1983.

14 I have been a member of the Canadian  
15 Association of Professional Heritage consultants since  
16 its founding. I am also an executive member of the  
17 Association of Professional Archaeologists in Ontario.  
18 I have held an archaeology consulting licence for my  
19 own company, Algonquin Associates, since 1984.

20 Since 1984, I have had experience  
21 throughout Ontario with heritage conservation work for  
22 public and private clients. I have conducted work  
23 under the Environmental Assessment Act and the Planning  
24 Act. This work has included large regional studies,  
25 linear rights-of-way studies, subdivision assessments,

1 archaeological and historical research and field  
2 investigation and documentation of historic structures.

3 I have worked extensively throughout  
4 northern Ontario. I have worked on environmental  
5 assessments in northern Ontario assessing heritage  
6 resources for Ontario Hydro for new transmission  
7 facilities, Great Lakes Power in connection with the  
8 construction of new hydro-electric facilities and  
9 reservoirs and TransCanada Pipelines for pipeline  
10 construction across northern Ontario.

11 I also worked in development of  
12 guidelines for assessment of heritage resources for the  
13 Pearson airport expansion environmental assessment.  
14 I've worked on the heritage component of the West  
15 Patricia land use plan conducted by the Ministry of  
16 Culture and Recreation for the Ministry of Natural  
17 Resources.

18 The range of heritage sites and the  
19 variety of locations I have worked have given me  
20 extensive experience in northern Ontario, all relevant  
21 to the discussion of heritage concerns within the  
22 timber management class environmental assessment.

23 MR. CUMING: What we propose to do now is  
24 to go through the witness statement that I believe you  
25 have, go through it section by section touching briefly



1 on those points that we wish to be emphasize, and then  
2 referring to the Class EA document before that to  
3 illustrate particular concerns or points.

4 In Section 1 of our witness statement we  
5 introduce the Canadian Association of Professional  
6 Heritage Consultants.

7 MADAM CHAIR: Excuse me, Mr. Cuming, Mr.  
8 Martel just reminded me that we should make your  
9 witness statement an exhibit to the hearing and we will  
10 give this document Exhibit No. 1796.

11 ---EXHIBIT NO. 1796: Witness statement of The Canadian  
12 Association of Professional  
Heritage Consultants.

13 MADAM CHAIR: Please continue.

14 MR. CUMING: Thank you.

15 The Association has been incorporated  
16 under federal letters patent to pursue a number of  
17 objectives and we have list those on page 3 of our  
18 witness statement.

19 Due to this hearing are objectives three  
20 and four, which is to enhance awareness and  
21 appreciation of heritage resources and the contribution  
22 of heritage consultants; and to foster communication  
23 among private practitioners, public agencies, and the  
24 public-at-large in matters related to heritage  
25 conservation.

1                   In this regard, the Association has been  
2 involved in a variety of initiatives of the provincial  
3 government and other agencies where the involvement of  
4 our Association is warranted with respect to the  
5 conservation of heritage features.

6                   Our involvement has been primarily in  
7 matters relating to policy, principles and practice,  
8 process and procedures, as well as personnel.

9                   To this end, we have participated in  
10 several review mechanisms. We have participated in the  
11 Ontario Heritage Policy Review which has been sponsored  
12 by the Ontario Heritage Foundation and the Ministry of  
13 Culture and Communications.

14                   We have participated in the Ministry of  
15 Government Services apparent Class EA process. We have  
16 participated with the Ministry of Culture and  
17 Communications in sponsoring a two-day conference on  
18 archaeological assessments of significance.

19                   We have participated in the timber  
20 management guidelines which there may be reference to  
21 later on sponsored by the Ministry of Natural  
22 Resources. We have also responded at various times to  
23 the Niagara Escarpment Plan Review which is currently  
24 ongoing.

25                   CAPHC, the Association has been involved

1 with the timber management Class EA since it was first  
2 notified of the EA Heritage Guidelines process in 1988.  
3 We have commented and participated in the production of  
4 Heritage Guidelines through a task force authorized by  
5 the Board of CAPHC. A task force has been established  
6 of which Ann Balmer and I are members, and we have  
7 prepared this witness statement pursuant to that  
8 interest and initiative.

9 In our witness statement we have reviewed  
10 the requirements of the Environmental Assessment Act,  
11 current Ministry guidelines as they relate to heritage  
12 resource identification and mitigation in the EA  
13 process.

14 We will discuss a protocol that has been  
15 developed specifically by the Ministry of  
16 Transportation which addresses heritage concerns in the  
17 EA process. We will also comment on the Ministry of  
18 Culture and Communication's comments on this timber  
19 management Class EA, as well as comment briefly on our  
20 involvement in the timber management guidelines  
21 themselves.

22 Our evidence that we will present will  
23 conclude that the Ministry of Culture and  
24 Communications and the Ministry of Natural Resources  
25 have agreed that there is a substantial potential for



1 impact on a range of specific heritage resources as a  
2 result of a wide range of forest management practices.

3 The Ministry of Natural Resources has  
4 also indicated the need for a systematic planning  
5 process to address heritage concerns and to assure that  
6 sound conservation principles and practices are applied  
7 as part of the Class EA process.

8 In the light of our review, CAPHC's  
9 review of the Timber Management Class EA, we believe  
10 that the Class EA is actually insufficient in that it  
11 does not adequately address the requirements of the  
12 Environmental Assessment Act and the Ministry of  
13 Culture and Communication's guidelines for man-made  
14 heritage assessment with respect to heritage matters.

15 In Section 2 of our witness statement we  
16 have reviewed very briefly the requirements of the  
17 Environmental Assessment Act.

18 The Class EA before you recognizes a very  
19 large area of undertaking with a substantial portion of  
20 the Province of Ontario and we believe that the Class  
21 EA does not provide adequately for the environmental  
22 assessment requirements of the Act.

23 Before reviewing the particular  
24 deficiencies that we think are evident in that  
25 document, what I will do is I will pass the

1 presentation over to Ann Balmer who will describe the  
2 heritage resources and sensitivities of northern  
3 Ontario.

4 MS. BALMER: I would like to briefly  
5 describe the pre-historic and historic occupation of  
6 northern Ontario and the types of sites and potential  
7 impacts to them from timber management activities.

8 The earliest documented human occupation  
9 in northern Ontario followed the recession of the  
10 glaciers beginning about 12,000 B.P. Sites have been  
11 identified in association with glacial lakes, spill  
12 waste and related features. Research efforts  
13 increasingly suggest that pre-historic people have  
14 continuously and extensively occupied the study area  
15 since that time.

16 Sites associated with the pre-historic  
17 occupations include a wide range of sites, for example,  
18 habitation sites which include small camps to large  
19 villages; spiritual sites which include pictographs and  
20 burials; resource gathering sites including kill sites  
21 and stone quarry sites.

22 Aboriginal settlement and land use is a  
23 continuation of this pre-historic occupation in what is  
24 referred to as the historic period. Sites and  
25 activities associated with traditional aboriginal land

1 use activities include, for example, habitation sites,  
2 trap lands, hunting territories, trails, spiritual  
3 sites and plant harvesting areas.

4 Today some of these sites would include  
5 both built and archaeological remains, as well as  
6 cultural landscape associations.

7 Historic activities associated with  
8 European exploitation and settlement begins in the late  
9 1,600's in eastern Ontario with the expansion of the  
10 fur trade. Interior posts, portages and camp sites  
11 were extensively developed throughout the 18th and 19th  
12 centuries.

13 Other major activities that transformed  
14 northern Ontario include lumbering, railway development  
15 between 1880 and 1916, mining and agricultural  
16 development. All of these historic activities left  
17 substantial archaeological and built remains, and in  
18 some cases greatly transformed the landscape.

19 In summary, there are pre-historic and  
20 historic aboriginal and historic Euro-Canadian sites  
21 and associated cultural landscapes throughout northern  
22 Ontario representing the full period of human  
23 occupation.

24 While we can provide with confidence this  
25 overview of pre-historic and historic activity and site



1 types, the actual location of sites and areas remain  
2 largely undocumented. Documentation is particularly  
3 difficult for archaeological sites being underground or  
4 under water since they are not visible and can only be  
5 identified through trained observers.

6 In Ontario, heritage resources are  
7 currently defined as having tangible and intangible  
8 elements. Tangible elements include archaeological  
9 remains, structural remains and cultural landscapes.

10 Definitions of these categories can be  
11 found in the draft timber management guidelines for the  
12 protection of heritage resources in Section 2.1 on page  
13 3.

14 Intangible elements include, for example,  
15 traditional beliefs, values and attitudes, speech  
16 including stories, songs, sayings, names and behaviours  
17 such as skills, games, dances and ceremonies.

18 I am now going to read to you what are  
19 described as the potential effects of timber management  
20 operations on heritage resources in the draft  
21 guidelines, Section 3.1 on page 4, Adverse Effects.

22 "Different aspects of normal timber  
23 management operations can intentionally  
24 or unintentionally produce long term  
25 adverse impacts on heritage resources.

1 Construction of roads, camps,  
2 garages and assembly areas can result in  
3 destruction or damage to all four  
4 categories of heritage resources."

5 The fourth category identified in the  
6 draft guidelines was traditional use areas which I have  
7 included in the aboriginal -- historic aboriginal land  
8 use.

9 "Public access - timber access roads and  
10 rivers crossings that are used by the  
11 public can inadvertently result in an  
12 unintended recreation use, damage or  
13 vandalism of a heritage resource site or  
14 location.

15 Harvesting operations - where heavy  
16 equipment is the principal means of  
17 cutting, stacking and loading timber, all  
18 four categories of heritage resources can  
19 be damage or destroyed. Archaeological  
20 remains are particularly susceptible to  
21 damage/destruction if the heavy equipment  
22 disturbs the organic soil. The organic  
23 soil is particularly important to  
24 archaeologists because it is in this soil  
25 that the archaeological remains, if they

1 are present, will most often be found.

2 Site preparation - where different  
3 mechanical site preparation or  
4 scarification techniques are used, all  
5 categories of heritage resources may be  
6 damage or destroyed. Since the purpose  
7 of site preparation is to disturb surface  
8 and organic soils in a manner that  
9 exposes the mineral soil for  
10 regeneration, any archaeological  
11 remains in the prepared area will most  
12 likely be damaged or destroyed.

13 Controlled burns can also have  
14 significant potential effects on  
15 structural remains.

16 Regeneration - mechanical seeding and  
17 tree planting can damage or destroy any  
18 archaeological remains that have not  
19 already been destroyed by the site  
20 preparation operations. In general,  
21 manual or aerial seeding causes the least  
22 damage to these resources.

23 In summary, the threat that affects many  
24 heritage resources, encountered in the  
25 area of undertaking, is any activity



1                   which disturbs the surface and/or organic  
2                   soil, including unintended public  
3                   access."

4                   I would like to emphasize for the Board  
5                   some points related to the specific character of the  
6                   sites in this area and expand on the idea of unintended  
7                   public access.

8                   Many of the activities associated with  
9                   construction of access roads and related facilities  
10                  with timber harvesting and site preparation have  
11                  potentially very significant effects on heritage  
12                  resources of all kinds.

13                  Potential adverse effects are summarized  
14                  as ranging from complete destruction to permanent  
15                  long-term damage to resources that are generally  
16                  fragile and non-renewable. New access created to Crown  
17                  land may encourage recreation activity.

18                  Areas of lakeshores and interiors far  
19                  beyond the limits of the actual timber management areas  
20                  will have to be considered as areas potentially  
21                  affected as a result of the creation of new access.

22                  Recreation activities create intensive  
23                  pressure that can erode, degrade and eventually destroy  
24                  heritage sites made accessible by timber management  
25                  activities.

1                   It is important to emphasize that most  
2       archaeological sites, both pre-historic aboriginal and  
3       historic sites, are very fragile as a result of the  
4       shallow nature of the soil deposit in northern Ontario.

5                   Most archaeological sites occur within  
6       the top to 20 to 30 centimetres of the organic mineral  
7       soil horizons. The horizontal and vertical  
8       relationships between the artifacts are as important as  
9       the artifacts themselves and once the site has been  
10      churned up by a skidder or eroded out as a result of  
11      vegetation removal its value is seriously diminished.

12                  Areas of lakeshores and inferiors far  
13      beyond the limits of the actual cutting areas will  
14      potentially suffer serious damaging results from the  
15      increased activity as a result of new access created by  
16      timber management activities.

17                  MR. CUMING: Turning briefly to the Class  
18      EA document itself. We are certainly not  
19      challenging -- CAPHC is certainly not challenging the  
20      purpose and rationale for the undertaking. As Ann has  
21      described, there are a rich variety of heritage  
22      resources within the area of the undertaking.

23                  MNR in its Class EA has called for a  
24      consistent planning approach to timber management. In  
25      Section 10 of the Class EA, in Part 1, pages 52 to 55,

1 the document describes the environment to be affected  
2 by the undertaking. I will quote pages 7 -- sorry,  
3 line 7 to 10 of page 52.

4 "MNR takes the position that in a class  
5 environmental assessment description of  
6 the environment affected need not be  
7 detailed, but must identify in a general  
8 way those components of the environment  
9 which are likely be to be affected by the  
10 undertaking."

11 MADAM CHAIR: Excuse me, Mr. Cuming, what  
12 line was that?

13 MR. CUMING: Lines 7 to 10 on page 52.

14 MADAM CHAIR: Thank you.

15 MR. CUMING: Given the heritage features  
16 and resources that exist within the area of the  
17 undertaking, archaeological sites, traditional use  
18 areas, cultural landscapes and built features, we  
19 believe there is sufficient justification to include  
20 that in the description of the environment to be  
21 undertaken -- to be affected by the undertaking.

22 I will quote again from the document.  
23 This is on page 55, line 7:

24 "Because of the ubiquitous nature of  
25 timber management, the undertaking also



1                   has a substantial impact on the  
2                   social, economic and cultural  
3                   environment."

4       It goes on:

5                   "It is difficult to divorce description  
6                   of these components of the environment  
7                   from a discussion of the effects of  
8                   timber management activities on the  
9                   environment."

10                  As a result, these components of the  
11       environment are addressed in the discussion of the  
12       environmental effects of the undertaking which is  
13       presented in Chapter 1 -- sorry, Chapter 1, Part 1  
14       which follows this chapter.

15                  We are suggesting that in Section 10  
16       there is no discussion or identification of the  
17       heritage component of the environment to be affected by  
18       the undertaking.

19                  We believe that it is crucial that in  
20       that section there be a description of the heritage  
21       environment to be affected by the undertaking because  
22       that drives a lot of the planning procedures that  
23       follow, it drives the discussion and the examination of  
24       the environmental impacts caused by the undertaking.

25                  MADAM CHAIR: Excuse me. When you refer

1 to Section 10, you are talking about the draft heritage  
2 guidelines?

3 MR. CUMING: Section 10 of the Class EA.

4 MADAM CHAIR: Section 10 of the Class EA.

5 MR. CUMING: If we are talking about a  
6 consistent process, it's crucial that these strands in  
7 terms of identifying heritage features are carried out  
8 throughout the whole document.

9 In Section 11, the potential  
10 environmental effects of the undertaking are described  
11 in the Class EA. It should be noted that on page 56,  
12 lines 16 to 21, the EA states:

13 "This chapter will serve as the basic  
14 reference source for information on the  
15 potential environmental effects of  
16 alternative timber management operations  
17 when decisions among all alternative must  
18 be made during the preparation of timber  
19 management plans for each management  
20 unit."

21 So we believe that Section 11 is a very  
22 important section of the Class EA.

23 On page 57, introducing the variety of  
24 activities, timber management activities that have  
25 impacts on the environment, the EA states:

1                   "The following sections describe the  
2                   potential environmental effects of each  
3                   of the alternative methods with provision  
4                   of access, harvest, renewal and  
5                   maintenance."

6                   These effects were addressed under the  
7                   heading of aquatic effects, terrestrial effects and  
8                   social and economic and cultural effects.

9                   Accordingly, under cultural effects we  
10                  would expect to see a discussion of the impacts of each  
11                  activity upon heritage features and resources.

12                  In reviewing the various types of  
13                  activities such as road construction and road access,  
14                  we note that there is reference to the impact, as Ann  
15                  Balmer discussed, on roads and their direct and  
16                  indirect effects. Construction activities may result  
17                  in the destruction of archaeological sites, as well  
18                  indirect effects such as increased visitation to an  
19                  area is also an important consideration.

20                  If you look at some of the other indirect  
21                  effects that aren't addressed, we would refer to roads  
22                  and to the effects under aquatic environment -- I'm  
23                  sorry, aquatic effects. There is a discussion there on  
24                  erosion.

25                  MADAM CHAIR: Excuse me. Which page are

1       you on, Mr. Cuming?

2                       MR. CUMING:   Page 60.

3                       MADAM CHAIR:   Thank you.

4                       MR. CUMING:   As a matter of fact, I will  
5       read from the bottom of page 59 to 60.

6                       "Abandoned roads can be continuing  
7       sources of sediment unless preventive  
8       measures are taken. Blockage of culverts  
9       or ditches by debris and sediment can  
10      lead to...and sedimentation.  
11      Ditches and unstable slopes can be  
12      subject to erosion which may continue for  
13      several years if their soil is not  
14      adequately stablized."

15                      It is our concern that this may also have  
16      an indirect effect on archaeological sites.

17                      We would also note that with respect to  
18      transportation activities, the EA examines road, rail  
19      and water transportation. There are no effects claimed  
20      under social, economic and cultural effects for water  
21      transportation, although on the top of page 71, dealing  
22      with aquatic effects, the EA states that:

23                      "During storage or transport of water  
24      logs can be waterlogged and sink to the  
25      bottom. Such logs can destroy benthic



1                   organisms and cause compaction of bottom  
2                   settlements."

3                   We believe that there may be also  
4           potential to disturb underwater archaeological sites.

5                   Further, it states:

6                   "Log driving can result in gouging of  
7                   stream banks and stream bottoms causing  
8                   erosion and sedimentation and loss of  
9                   fish habitat."

10                  We also believe that there is potential  
11           for disturbance of archaeological sites there.

12                  In turning to one of the more important  
13           elements of the Class EA with respect to harvesting on  
14           page 72, Section 1.3, the opening statement is that:

15                  "Harvest operations have the greatest  
16                  potential of all of the activities of  
17                  timber management for incurring  
18                  significant detrimental environmental  
19                  impacts."

20                  We would concur with that observation.

21                  Turning to the social, economic and  
22           cultural effects of harvesting, there is little, if  
23           any, discussion of the effects of harvesting in terms  
24           of surface runoff and erosion of topsoil, erosive  
25           powers of stream flows, skidding, soil compaction, log

1 landings, cultural landscaping intrusions and so on.

2 There is discussion of tourism and/or  
3 recreation, aesthetic value of the scenery, the effects  
4 on tourist operators, on fishing and hunting seasons,  
5 wildlife, trap lines, mineral exploration and so on.  
6 There is no discussion of the effects on heritage  
7 features.

8 Returning just briefly on page 5 of our  
9 witness statement, we are clearly concerned that  
10 because there is not this consistent approach to  
11 heritage assessment that there may be an inconsistent  
12 approach to the description, the actions necessary to  
13 prevent, change, mitigate or remedy adverse effects.

14 We believe that in Part 2 of the Class  
15 EA, the timber management planning process, that  
16 clearly there is the opportunity to address these  
17 effects of timber activities in the area of the  
18 undertaking.

19 On page 105 of the Class EA, the opening  
20 chapter, Section 2 states that:

21 "This chapter describes the planning  
22 process which would ensure that the  
23 potential environmental effects of  
24 operations are identified during the  
25 planning of operations, that operations

1                   are ultimately carried out in a manner  
2                   which prevents, minimized or mitigates  
3                   adverse environmental effects."

4                   We believe that in order to do that there  
5           needs to be a very consistent process of identifying  
6           heritage features and various components of those  
7           heritage features.

8                   On page 106, the bottom three lines of  
9           that page, EA states that:

10                   "At the outset of the planning process  
11                   the district manager appoints a  
12                   multi-disciplinary team of MNR district  
13                   staff to participate in the preparation  
14                   of the plan."

15                   That team represents various programs  
16           including forest resources, fish and wildlife, parks,  
17           lands and waters and fire management.

18                   We would note there is no heritage  
19           resource expertise provided in that planning team.

20                   MR. MARTEL: Can I ask a question.

21                   What's ever happened to that document  
22           that I thought was in preparation at least two years  
23           ago on heritage identification and so on?

24                   I think, I'm not sure, that that was  
25           supposed to be -- was that not started in '89 -- '88/89

1 and it has not reached the drawing board yet?

2 MR. CUMING: It was started in September  
3 '88.

4 MR. MARTEL: And where is it now?

5 MR. CUMING: We will be telling you where  
6 we believe it has got to as sort of our last response  
7 of March 1990.

8 MADAM CHAIR: One question before we  
9 continue. To what extent have heritage resources been  
10 inventoried in the area of the undertaking in northern  
11 Ontario?

12 Do we have only a tiny, tiny fraction of  
13 knowledge about what might be there and, therefore,  
14 your concern is to not destroy things before they are  
15 identified or -- that's one of part of my question.

16 The second part is, do you see timber  
17 management planning as being of great assistance to the  
18 inventorying of heritage resources?

19 MS. BALMER: The first question. Yes, we  
20 just have -- we know we have fairly good knowledge of  
21 the types of sites or the types of resources that are  
22 there, the remains, but we don't know where they are.  
23 We have -- a very small fraction of them have been  
24 documented.

25 Yes, an inventory in the context of



1 timber management would increase our knowledge greatly,  
2 but that's not -- that wouldn't be the purpose of  
3 wanting to have it included in this process.

4 The main purpose is for protection and  
5 the identification of these resources. They can't be  
6 protected until they are identified, until the location  
7 is identified. And eventually a field based inventory  
8 has to be done in order to -- has to be carried out in  
9 order for that to be done.

10 MADAM CHAIR: And you don't see timber  
11 management planning as being one way of expanding an  
12 inventory program?

13 MS. BALMER: Yes, it would be.

14 MADAM CHAIR: Because the alternative is  
15 what you do now, and how do you discover heritage  
16 resources in the north?

17 MS. BALMER: Well, either private  
18 research or research -- individual research is one way,  
19 but in a lot of cases it is done in the environmental  
20 assessment process when other undertakings are...

21 MADAM CHAIR: So the largest land base  
22 that you cover with inventory is through the  
23 environmental assessment process?

24 MS. BALMER: Or district planning,  
25 regional planning, yes.

1 MADAM CHAIR: Please continue.

2 MR. MARTEL: Before you go on, the reason  
3 I raised the question about the document that's out  
4 there somewhere is that we are going through what's  
5 missing and I am wondering what's happened in the past  
6 two and a half years to include those in the guidelines  
7 that are forthcoming?

8 Are you just highlighting them, hopefully  
9 they will be there, or is there some anticipation that  
10 it won't cover the items that you are looking at or  
11 want looked at or inventoried?

12 I mean, it seems to me that two and a  
13 half years should have led to elimination of some of  
14 these concerns if we are going to come up with some  
15 guidelines which were meaningful. I just don't know  
16 what your perception is of the dialogue that's gone on  
17 to date.

18 MR. CUMING: We have included in our  
19 presentation the last draft that the Canadian  
20 Association of Professional Heritage Consultants did  
21 review. That was undertaken -- the guidelines were  
22 produced in December 1989, we responded in March and we  
23 had a number of concerns.

24 To this day the Association has not been  
25 formally notified of the status of those guidelines,

1       our letter of March 1990, our concerns and so on.

2               We are aware that there has been recent  
3       activity, I believe a steering committee was reconvened  
4       just recently to address these guidelines again. We  
5       haven't been advised of the status of the document or  
6       anything.

7               Just following on from that, I believe  
8       what we will be concluding in our presentation is that  
9       a lot of the information that was contained in the  
10      draft guidelines of 1989 should rightfully reside in  
11      the Class EA itself; in other words, the general  
12      descriptions of the heritage features that have been  
13      encountered, the general effects that might accrue to  
14      each individual type of heritage feature and so on.

15              Perhaps, rather than continuing going  
16      through the timber management planning process,  
17      essentially what the Association is saying is that we  
18      don't believe the timber management planning process as  
19      provided in this class environmental assessment  
20      necessarily provides the information, the right time or  
21      the right places to address what we consider to be  
22      sound heritage conservation planning practices.

23              That's basically to put it in a nutshell.

24              MR. MARTEL: Do you want to repeat that?

25      I am taking this down and my shorthand isn't too hot

1       this morning.

2                   MR. CUMING: To put everything in a  
3       nutshell, we believe the process involved in the timber  
4       management planning process, as described in the Class  
5       EA, are essentially insufficient in that they don't  
6       provide the processes and procedures for identifying  
7       heritage features of the appropriate time and places.

8                   We do believe that the guidelines that  
9       were being developed as of December 1989 were a very  
10      good direction as to how one -- the proponent should  
11      identify heritage features and how one should plan for  
12      them in timber management activities.

13                  Again, just briefly, on page 112, the  
14      processes initiated of identifying heritage or at least  
15      components of the environment that are important in  
16      timber management. Page 17 -- sorry page 112, line 17,  
17      it states that:

18                  "Existing information on other natural  
19                  resource features, land uses and values  
20                  is available to MNR's district office in  
21                  the form of maps, files and reports and  
22                  knowledge of local MNR staff. Much of  
23                  that information was amalgamated during  
24                  MNR's land use planning exercise and  
25                  it is readily available for timber



1 management planning purposes."

2 As Ann has indicated, there was not a lot  
3 of information on heritage features.

4 The Class EA notes that:

5 "The District Land Use Guidelines  
6 themselves are an important source of  
7 background information."

8 Again, those land use guidelines did not  
9 inventory or generally identify heritage features. We  
10 know from reviewing those there are perhaps one or two  
11 heritage sites identified as a part of the plan.

12 The reason why it is important that  
13 heritage features be identified earlier on, or at least  
14 processes be set up is that these will essentially  
15 constitute those areas of concern later on in the  
16 process of timber management where areas of concern  
17 will guide sound planning of the conservation and  
18 valued heritage features.

19 One of the key areas of concern is on  
20 page 132 of the Class EA where the EA references the  
21 identification of preliminary areas of concern. Those  
22 areas of concern are based to a large extent on the  
23 information that exists already with MNR or resides  
24 with MNR.

25 Again, on page 133 there is a statement

1       that:

2                       "The District Land Use Guidelines are  
3                       a particularly useful source of  
4                       background information for the  
5                       identification of these preliminary areas  
6                       of concern."

7                       We are suggesting that they are not  
8       particularly useful for heritage features.

9                       Perhaps I will just simply stop there and  
10       turn to the witness statement. We believe that the  
11       guidelines, the draft guidelines that were produced in  
12       December '89 were going on the right track to  
13       addressing the critical identification of areas of  
14       concern. I will refer again to that later in my  
15       presentation.

16                      We believe, in concluding on this section  
17       of the environmental assessment requirements, that the  
18       Class EA really does not include the necessary  
19       information regarding heritage resources, it does not  
20       describe heritage resources, document predictable  
21       effects or the action necessary to remedy adverse  
22       effects. We believe that the Class EA is, therefore,  
23       incomplete as it stands now.

24                      Moving on to Section 3. In 1980 and  
25       1981, the Ministry of Culture and Recreation, as it

1       then was and now the Ministry of Culture and  
2       Communications, prepared guidelines on the man-made  
3       heritage component of environmental assessments. So  
4       the guidelines are about ten years old now.

5               The guidelines spelled out very clearly  
6       what the Ministry's position and was and in actual fact  
7       it was jointly endorsed by the Ministry of the  
8       Environment, indicated what was desirable in describing  
9       man-made heritage as part of either a specific  
10      undertaking subject to the act or indeed a class  
11      undertaking subject to the act.

12             What I want to do is just describe for  
13      you what those guidelines state about class  
14      environmental assessment processes and undertakings.  
15      The guidelines are provided in the back in their  
16      entirety. I will start on page 4.

17             MADAM CHAIR: Is that page 4 of Appendix  
18      A?

19             MR. CUMING: That's page 4 of the  
20      guidelines on the man-made heritage component of  
21      environmental assessments. It is Appendix B, Exhibit  
22      A.

23             The second paragraph states:

24             "For a 'Class' undertaking, a

25             considerable number of unspecified sites

1 and areas over the entire province and  
2 the man-made heritage therein may be  
3 affected. Some limits on the extent of  
4 the area to be affected by a class  
5 undertaking may be anticipated, however,  
6 from the general description of the  
7 characteristics of projects that are to  
8 be included in a particular class (for  
9 example, maximum and minimum size,  
10 specified standard designs, etc.)

11 The 'Class' environmental assessment  
12 should therefore define the anticipated  
13 geographic extent and general conditions  
14 of the area to be affected by a typical  
15 example of class activity.

16 In the data gathering process, third  
17 paragraph, Section 3.2, the guidelines state:

18 "For a 'Class' undertaking, the  
19 environmental assessment should discuss  
20 briefly the need to specify the scale  
21 and sequence of the data-gathering  
22 process concerning man-made heritage for  
23 whatever reports are required for each  
24 individual project within the class of  
25 activity."



1                   On page 9 of those guidelines, bottom  
2 paragraph, this refers to the components of the  
3 environment that the information should be collected  
4 upon:

5                   "For a class undertaking, the  
6 environmental assessment should specify  
7 the categories of necessary information  
8 discussed above..." this includes  
9 cultural landscape, built in environment and  
10 archaeological surveys,

11                   "...discussed above as part of whatever  
12 reports are required for each individual  
13 project within the class of activity. It  
14 should also indicate the means through  
15 which such information will be  
16 provided."

17           On page 10, last paragraph, Section 3.4:

18                   "For a 'Class' undertaking, the  
19 environmental assessment should specify  
20 the need for consistent documentation and  
21 presentation of the necessary information  
22 in whatever reports are required for each  
23 individual project within the class of  
24 activity."

25           On page 13, the paragraph above Section 5:

1 "For a 'Class' environmental assessment,  
2 recognizing that the effects will vary  
3 in type and magnitude depending on the  
4 situation, typical examples should be  
5 given for probable effects to the extent  
6 practicable on a generalized basis. Of  
7 particular importance for a 'Class'  
8 environmental assessment is the  
9 description of the anticipated cumulative  
10 effects of the class of activity on  
11 man-made heritage throughout the whole or  
12 any part of Ontario over a long period  
13 of time. Finally, the 'Class'  
14 environmental assessment should also  
15 discuss under what circumstances adverse  
16 effects on man-made heritage would be  
17 greater than expected norms and which  
18 would therefore constitute grounds for  
19 a 'Specific' (or individual)  
20 environmental assessment being required  
21 for the project.

22 On page 14, the paragraph above section 6:

23 A "Class" environmental assessment should  
24 describe the fundamental principles  
25 upon which mitigation measures concerning

1 man-made heritage will be based as well  
2 as a method or decision making with  
3 respect to the identification and  
4 evaluation of the need for actions to  
5 prevent, change, mitigate, or remedy the  
6 adverse effects of particular projects  
7 within the class. Examples of the type  
8 of mitigative measures appropriate to  
9 projects within the class should also be  
10 given. Finally, the 'Class'  
11 environmental assessment document should  
12 describe general procedures for  
13 monitoring man-made heritage concerns for  
14 the class activity as a whole, and  
15 indicate how reports required for each  
16 individual project within the class will  
17 contain a description of specific  
18 monitoring procedures."

19 At the bottom of page 14:

20 "For a 'Class' undertaking, the method  
21 through which man-made heritage  
22 will be considered in carrying out the  
23 evaluation of alternatives and selecting  
24 the undertaking should be specified in  
25 the environmental assessment."

1                   In reviewing the references cited in the  
2                   Class EA document, MNR does not make reference to the  
3                   guidelines of the Ministry of Culture and  
4                   Communications.

5                   We believe that those guidelines to which  
6                   many consultants and many heritage practitioners  
7                   throughout the province work towards are very, very  
8                   important. We quote them in our work, they provide for  
9                   the basis for us providing advice to either our clients  
10                  or our employers.

11                  We believe that there is a very  
12                  substantive document that describes in general terms  
13                  the requirements of the proponent undertaking heritage  
14                  assessment as a part of class or a full EA. It  
15                  outlines the range of information necessary to ensure  
16                  acceptance by MCC as a reviewing agency.

17                  We believe that the class environmental  
18                  assessment for timber management on Crown lands in  
19                  Ontario fails to meet the requirements set out in the  
20                  guidelines of the man-made heritage component of the  
21                  environmental assessments.

22                  In Section 4 of our witness statement, we  
23                  review the Ministry of Culture and communication's  
24                  review of the Class EA for timber management. The MCC  
25                  is charged under the Ontario Heritage Act with a number



1 of responsibilities with respect to heritage  
2 conservation. It is a reviewer of specific and Class  
3 EAs and makes its comments known to MOE on a regular  
4 basis.

5 In MCC's review of the Class EA, and I  
6 believe you have the EA reviewed in its entirety as  
7 Exhibit 5, MCC states:

8 "Two areas in which it has been agreed  
9 there will be further discussion include  
10 the development of an effective process  
11 of inventory and analysis of data as  
12 appropriate and the development of a  
13 buffering system to protect undiscovered  
14 sites when cost factors or lack of  
15 available expertise preclude heritage  
16 resource inventory in harvestable areas."

17 Further on in their review, they state:

18 "Therefore, MCC has agreed to assist in  
19 the production of guidelines for use in  
20 identifying areas where timber management  
21 would most likely impact on heritage  
22 science, predicting environmental  
23 effects, developing mitigation measures  
24 to reduce those effects and assigning  
25 responsibility for each of those steps."

1                   Again, we believe that a lot of that  
2           information is fundamental to a Class EA that should be  
3           provided in the Class EA.

4                   Also, MCC in response to questions posed  
5           by MOE in its review of the document - questions 3, 4,  
6           5 and 6 - expect that a technical manual on heritage  
7           resource management guideline will be the primary  
8           mechanism for such filing requirements of the EA Act.

9                   On page 12 of the witness statement,  
10          there is a summary. The MCC states:

11                   "This Ministry supports the undertaking  
12           as long as it is guaranteed provincial  
13           interest in heritage resource  
14           preservation will be protected during the  
15           process of timber management."

16                   We believe that a sound Class EA will  
17          provided that. MCC further states:

18                   "The planning, monitoring and compliance  
19           reporting parts of the process require  
20           the development with MCC's assistance of  
21           the heritage resource conservation  
22           technical manual."

23          It goes on:

24                   "An effective mechanism providing for the  
25           inventory and management of historic and

1 pre-historic sites on the Crown land must  
2 be developed."

3 We would agree wholeheartedly with that.  
4 We believe such a commitment should be part of the  
5 Class EA.

6 The last paragraph:

7 "A method should be developed to protect  
8 non-timber values in areas of high  
9 potential where a detailed inventory has  
10 not been carried out."

11 In conclusion, the Association is of the  
12 opinion that the Ministry of Culture and  
13 Communication's support for this Class EA appears  
14 premature and unjustified due to the lack of any  
15 discussion of heritage resources or processes of the  
16 identification of heritage resources or documentation  
17 of the predictable effects or identification of methods  
18 that may be used to mitigate or remedy the problem.

19 We believe and we describe in Section 5  
20 some of the guidelines being produced as part of the EA  
21 process. I think we take it as a given there will  
22 always be the need for detailed technical conservation  
23 manuals to aid in the EA process, and we have provided  
24 an example of a protocol for dealing with  
25 archaeological concerns on the Ministry of

1       Transportation undertakings. That protocol, we  
2       certainly believe, is the type that should be developed  
3       as part of this Class EA.

4               We believe that the guidelines, the draft  
5       guidelines that MNR produced earlier on in 1989 should  
6       properly be part of the Class EA, but it still leaves  
7       the need to develop a protocol for dealing with  
8       heritage concerns generally.

9               We've provided, just for the information  
10      of the Board, the type of protocols that have been  
11      developed by another Ministry. It recognizes the  
12      legislation that applies, such as the Environmental  
13      Assessment Act. It states in very general terms that  
14      archaeological resources are recognized as part of the  
15      environment and, therefore, must be assessed for  
16      impacts and mitigation for all MTO undertakings.

17              It gives very detailed guidance as to  
18      what might be expected as in various environmental  
19      circumstances, in fact who does what, the need for  
20      licensed archaeologists to do work and so on. There is  
21      also a very clear identification of the needs for field  
22      survey work, and there is no reference to any field  
23      survey work being undertaken in the Class EA document  
24      before you.

25              So we are suggesting that there is an



1       example and another examples where technical guidelines  
2       are in place that MNR could utilize.

3               In turning to page 4 our witness  
4       statement, Section 6, we discuss MNR's effort to  
5       develop heritage guidelines.

6               MADAM CHAIR: That's page 14?

7               MR. CUMING: Page 14 of our witness  
8       statement, yes.

9               MNR, as Mr. Martel referred to earlier,  
10      did initiate a work on guidelines, in heritage  
11      guidelines in early September of '88. At that time,  
12      MNR indicated that they were committed to a very short  
13      timetable for completion of a camera ready document and  
14      suggested that the camera ready version would be ready  
15      for publication by early 1989.

16              The steering committee was formed and the  
17      president of the Canadian Association of Professional  
18      Heritage consultants was involved in one of the  
19      workshops, so it seemed, by the steering committee.

20              The participants in those workshops met  
21      three times in 1988 and led to the production of the  
22      first major draft guidelines. Three revisions were  
23      undertaken and we ended up in December 1989 with a  
24      document entitled Timber Management Guidelines for the  
25      Protection of Heritage Resources, Consultation Draft.

1 That was mailed to all those participants in the  
2 workshops, as well as other interested parties.

3 Since that time, our Association and  
4 other members of the heritage community have had no  
5 formal discussion with the Ministry of Natural  
6 Resources. There has been no summary of the comments  
7 from the consultation draft circulated and there has  
8 been no time table for revision or finalization  
9 indicated based on the input to the consultation draft.

10 This essentially has led to our  
11 appearance at this hearing. In our review of the  
12 consultation draft, we did note a number of weaknesses  
13 and we have included as Exhibit D in Appendix B the  
14 Association's letter of March the 6th, 1990 to Mr.  
15 Ogilvie in which we outlined some of our continuing  
16 concerns to some of the processes.

17 The issues that need to be addressed  
18 included the content of a range of initiatives that the  
19 MNR and MCC were proposing to move ahead on that had  
20 not been part of the guidelines workshop discussions;  
21 for example, the heritage resources database project  
22 and a compliance and effectiveness monitoring program.

23 To date, these have only been generally  
24 outlined by the workshop facilitator in the covering  
25 letter to the consultation draft.

1                   In summary, our Association has worked  
2       with the Ministry of Natural Resources and other  
3       interested parties for four and a half years to develop  
4       the timber management guidelines and essentially as we  
5       serve on a volunteer basis that's a substantial  
6       commitment of ours and days on our part and I don't  
7       think that should be lost.

8                   So as we sit today before you, the  
9       technical manual and the heritage resource management  
10      guidelines that were necessary and agreed to by MCC and  
11      MNR for successful protection of heritage resources in  
12      this Class EA process have not been completed.

13                  The Association would advise that MNR did  
14      not introduce as part of the its evidence any draft of  
15      the guidelines, leaving it to other parties to appear  
16      and reiterate the need for their inclusion and their  
17      need in this EA document. The Board is now required to  
18      address the issue of heritage resource concerns as a  
19      issue to be resolved in determining the adequacy of the  
20      Class EA for timber management.

21                  On page 16, Section 7, we present our  
22      conclusions. The Association is of the opinion that  
23      the Class EA for timber management is insufficient as  
24      it does not adequately address the impacts on heritage  
25      resources and it does not satisfy the general

1 requirements of the EA Act.

2 The Class EA does not satisfy the  
3 requirements of the Ontario Ministry of Culture and  
4 Communication's guidelines on the man-made heritage  
5 component of environmental assessments.

6 MCC's acceptance of the Class EA and  
7 natural support for the Class EA was contingent upon  
8 successful completion and implementation of the  
9 guideline document and technical manual. MNR has not  
10 completed the required documents and has ceased to  
11 consult with the heritage community.

12 Accordingly, we would recommend that you  
13 find the Class EA for timber management insufficient  
14 with regard to heritage resources and require that the  
15 EA be completed and resubmitted to address this  
16 component of the environment.

17 If the Board determines that the Class EA  
18 is generally adequate, we would request that the Board  
19 require the Ministry of Natural Resources to amend the  
20 environmental assessment, the Class EA to meet the  
21 requirements of the EA Act and MCC guidelines  
22 pertaining to heritage resources. This would include a  
23 comprehensive guideline or protocol addressing all the  
24 requirements of heritage assessment. So we believe  
25 that the guidelines should rightly belong in this Class



1 EA document.

2 We would then urge you, as the Board, to  
3 make as a condition of approval the ratification, in  
4 consultation with the heritage community, of a  
5 comprehensive heritage assessment process as a  
6 component of all timber management planning activities.  
7 This will require guidelines that include the planning  
8 approach, mapping of potential, field survey methods,  
9 reporting requirements, mitigation options and  
10 monitoring of the compliance and effectiveness for all  
11 types of heritage resources and timber management  
12 activities.

13 That concludes our presentation.

14 MADAM CHAIR: Thank you, Mr. Cuming and  
15 Ms. Balmer.

16 Shall we take our morning break before we  
17 start the cross-examinations? We will be back in 20  
18 minutes.

19 ---Recess at 10:20 a.m.

20 ---On resuming at 10:40 a.m.

21 MADAM CHAIR: Please be seated.

22 Mr. Cassidy?

23 MR. CASSIDY: Thank you, Madam Chair.

24 I would like to commence by filing a copy  
25 of the interrogatories filed in respect of this witness

1 statement by my client, the Ontario Forest Industry  
2 Association, and the interrogatories filed by the  
3 Ministry of Natural Resources. I have collected them  
4 together and I suggest we make these interrogatories  
5 the next exhibit.

6 MADAM CHAIR: This will be Exhibit 1797.

7 ---EXHIBIT NO. 1797: OFIA and MRN interrogatories  
8 re CAPHC and answers thereto.

9 CROSS-EXAMINATION BY MR. CASSIDY:

10 Q. I am not sure which -- it doesn't  
11 matter to me which one of you answers the questions. I  
12 note that they appear to be signed by you, Ms. Balmer.

13 I would, first of all, like to turn to  
14 the second page of Exhibit 1797 which is the answer you  
15 gave to the Ministry's interrogatories and in response  
16 to the question of who the members of the timber  
17 management task force of your Association are you  
18 listed six people of whom yourself and Mr. Cuming are  
19 members, along with Mr. Ron Williamson.

20 Then I would like to turn back and review  
21 your answer to our interrogatory which is the first  
22 page of Exhibit 1797, and although the question is not  
23 here, the answer is responsive to the question which  
24 was asking you about the status of the draft guidelines  
25 to which Mr. Martel was referring to and which you have

1 referred to in your evidence since your witness  
2 statement was filed, and I note your witness statement  
3 is dated February 27th, 1991.

4 So the interrogatory was asking you to  
5 give the status as known to your Association of those  
6 guidelines since February 27th, 1991. In the second  
7 paragraph -- or, sorry, in the actual answer to that  
8 interrogatory in Exhibit 1797 you stated - this is the  
9 very first page of Exhibit 1797 - you stated that the  
10 heritage resource guidelines are being developed by the  
11 Ministry of Natural Resources, and you state, and I  
12 quote that:

13 "The Ministry of Natural Resources has  
14 not involved the CAPHC in developing  
15 these guidelines since the witness  
16 statement was issued. The CAPHC is not  
17 in a position to answer the question."

18 Now, I am aware principally because of  
19 Mr. Mike Oppen who is sitting to my right is a member  
20 of the steering committee for the production of those  
21 draft guidelines, I am aware that Mr. Ron Williamson  
22 who was referred to in your answer to the Ministry's  
23 interrogatories as being a member of your task force  
24 was at a meeting on April 3rd to discuss the -- April  
25 3rd, 1991 to discuss those draft guidelines and I am

1 also aware that in a fact he received a copy of the  
2 latest draft of those guidelines which I note you have  
3 not filed with your witness statement.

4 And I am wondering if you could explain  
5 to me your answer to your interrogatory in light of  
6 that fact.

7 MR. CUMING: A. Yes, I will answer that  
8 to the best of my ability. It is my understanding that  
9 recently the Ministry of Natural Resources assumed --  
10 contacted members of the steering committee that are  
11 described in the draft guidelines of December 1989.

12 It is my understanding that MNR was  
13 trying to reach Chris Andre, who is the director for  
14 the Society for Industrial Achaeology. Chris Andreae  
15 is out of the country and cannot attend.

16 It is my understanding that MNR then  
17 attempted to get a fill-in for Chris Andreae and  
18 reached Dr. Williamson.

19 Now, Dr. Williamson is not a member of  
20 the Society for Industrial Archaeology so he couldn't  
21 represent that organization on the steering committee.  
22 It is my understanding that Dr. Ron Williamson did  
23 appear and made it quite clear at that committee  
24 meeting that he did not represent the Ontario Society  
25 for Industrial Archaeology, but he did not in actual



1 fact represent the Association of Professional Heritage  
2 Consultants. He was sitting there as the president of  
3 Archaeological Services Incorporated which is part of  
4 his firm.

5 Q. Well, notwithstanding that -- sorry.

6 A. So we would suggest that the  
7 Association has not been firmly advised by the Ministry  
8 of Natural Resources of the status of the guidelines.

9 MADAM CHAIR: Excuse me, could I get  
10 something straight, Mr. Cuming.

11 Mr. Ron Williamson --

12 MR. CUMING: Dr. Ron Williamson.

13 MADAM CHAIR: Dr. Ron Williamson is  
14 identified here as member of the timber management task  
15 force but he is not a member of CAPHC?

16 MR. CUMING: Dr. Ronald Williamson  
17 appeared as a workshop participant representing the  
18 Canadian Association of Professional Heritage  
19 Consultants. He did not represent the Association on  
20 the steering committee.

21 MR. CASSIDY: Q. While he may not have  
22 and while he expressly disqualified himself as  
23 representing the Association of Professional Heritage  
24 Consultants, the body you appear on behalf of today, I  
25 still don't understand why the CAPHC has not offered

1 comment on those guidelines in your evidence today in  
2 light of the fact that Mr. Williamson is a member of  
3 our own task force.

4 MR. CUMING: A. Well, we replied in a  
5 letter of March the 6th, 1990 to the draft guidelines  
6 that had been prepared in December 1989.

7 Since March 1989, we have not been  
8 advised of the status of the guidelines. Neither Mr.  
9 Ogilvie who our letter was addressed to has advised on  
10 the status, neither has the Ministry of Natural  
11 Resources has advised the Association or its president.

12 They may well have advised Mr. Rob  
13 Williamson in his capacity as president of  
14 Archaeological Services Incorporated. Dr. Ronald  
15 Williamson certainly has not presented those guidelines  
16 to the CAPHC Board.

17 Q. So let me understand your position.  
18 Notwithstanding that a member of your own task force is  
19 aware of the latest version of those guidelines, it is  
20 your position before the Board today that the CAPHC is  
21 not formally aware of them?

22 A. We are aware that recent activities  
23 by MNR has resulted in some form of guidelines. I have  
24 not seen them, Ann Balmer has not seen them and the  
25 Board members of CAPHC has not seen them.

1 Q. Are you aware that Mr. Williamson was  
2 sent a copy of those redrafted guidelines on April 17th  
3 of this year?

4 A. April 17th. I knew that Dr. Ron  
5 Williamson was appearing at the steering committee. He  
6 may have received the guidelines. I'm not too sure of  
7 what he did received.

8 Q. Faced with the knowledge or you knew  
9 that he was at that steering committee, did you ask him  
10 to inform you as to any outcome of redrafted guidelines  
11 or anything that would possibly affect your evidence  
12 today?

13 A. No, I didn't.

14 Q. You never asked him to provide you  
15 with that information?

16 A. No, I didn't.

17 MR. MARTEL: Do you have any knowledge as  
18 to why MNR might have failed to contact you with  
19 respect to the new draft guidelines which I presume are  
20 a response to all of the materials submitted in the  
21 letter from yourself and other people in 1990?

22 Why would you have been ignored?

23 MR. CUMING: I really don't have the  
24 answer to that.

25 MR. MARTEL: You have no knowledge at

1 all?

2 MR. CUMING: I have no knowledge of why  
3 our letter in March 1990 wasn't responded to and I have  
4 no idea why the draft timber management guidelines have  
5 not been forwarded to the Association for comment or  
6 anything.

7 MR. CASSIDY: Q. Let me ask you  
8 something from that. Mr. Andreae --

9 MR. CUMING: A. Chris Andreae.

10 Q. Chris Andreae?

11 A. Yes.

12 Q. He was listed in the original draft  
13 guidelines not as a representative of your Association,  
14 but as a representative of the society; is that  
15 correct?

16 A. Yes, Chris Andreae, it is my  
17 understanding, was representing the Society for  
18 Industrial Archaeology. It is my understanding that  
19 our Association was not represented on that steering  
20 committee.

21 Q. All right. So you never were a  
22 member of the steering committee such that you would be  
23 entitled to the notification that Mr. Martel is talking  
24 about; is that fair to say?

25 A. Well, I think going back to our



1 response of March 1990, certainly as a steering  
2 committee member we would not have been notified.

3 Q. Right.

4 A. I would suspect, as we had written to  
5 Mr. Ogilvie in 1990, that we would have been -- as an  
6 interested party and sort of a workshop participant we  
7 would have been apprised of any new guidelines.

8 Q. I see. So the Ministry does try and  
9 contact Mr. Andreae but he is out of the country to  
10 work on this redraft and they contact a member of our  
11 task force to work on the redraft, and I don't  
12 understand why you say that that's not consultation  
13 with your Association when a member of your very own  
14 task force is involved in the redraft?

15 A. Well, again, I would go back to the  
16 fact that as a relatively democratic body and the Board  
17 of Directors we consider crucial issues like this  
18 before a Board of Directors.

19 It is my understanding that, as I sit on  
20 the Board, we have had no response from our March 1990  
21 letter and we have not received any updates formally  
22 since then. I understand Dr. Ron Williamson did attend  
23 that meeting.

24 Q. When you say formally, you are  
25 looking for a letter from the Ministry of Natural

1 Resources to the Canadian Association of Professional  
2 Heritage Consultants I presume; right?

3 A. That's right. I think what we would  
4 be looking for, again, is some involvement as  
5 anticipated in the draft guidelines of December 1989  
6 where the consultation draft was forwarded to a number  
7 of reviewers and who responded accordingly.

8 MR. MARTEL: What I am trying to get at,  
9 Mr. Cassidy, is how all this spins.

10 I mean, you are here before us today and  
11 I can't understand that there has been nothing  
12 presented to you. You were a member of the task force,  
13 membership with the timber management task force,  
14 member of the CAPHC Board of Directors.

15 I just can't put it in my head why -- I  
16 can't see why it is so difficult either for MNR to  
17 contact you or for you to contact someone like Mr.  
18 Williamson so that when you are here today we have an  
19 update.

20 My question much earlier today was -- the  
21 first question I raised was where are we.

22 MR. CASSIDY: Well, Mr. Martel --

23 MR. MARTEL: That's what I am trying to  
24 get at. I don't care about the gymnastics that go on  
25 outside of here, but here. I want to know where we are

1 at.

2 MR. CASSIDY: I am absolutely as baffled  
3 as you are, Mr. Martel.

4 My question has been aimed just at that  
5 because my information is that there has been a redraft  
6 circulated to my client certainly and to a member of  
7 his own task force and yet we haven't heard anything  
8 about that redraft in the evidence-in-chief.

9 I must confess I was surprised by that  
10 because when I saw the names being the same I almost  
11 get the impression that the one hand doesn't know what  
12 the other hand is doing in the task force, but I will  
13 leave it at that.

14 I have no further questions.

15 MADAM CHAIR: So your position, Mr.  
16 Cuming, is that CAPHC has not received the redrafted  
17 guidelines and you have no idea whether they address  
18 the concerns that you communicated to MNR in your March  
19 6th, 1990 letter?

20 MR. CUMING: That's right.

21 MADAM CHAIR: Ms. Seaborn?

22 MS. SEABORN: Thank you, Madam Chair.

23 Mr. Cuming and Ms. Balmer, my name is Jan  
24 Seaborn and I act for the Ministry of the Environment  
25 in these proceedings. I am wearing my hat today as

1 counsel for MCC.

2 CROSS-EXAMINATION BY MS. SEABORN:

3 I just have a couple of questions in  
4 relation to your witness statement. Could you turn to  
5 page 11, please, of Exhibit 1796.

6 Now, Mr. Cuming, in your oral testimony  
7 you directed the Board to Section 4 of your witness  
8 statement that commences at pages 11 and this section  
9 of the evidence sets out MCC's position at the time of  
10 the government review of the Class EA.

11 I take it you would agree with me that  
12 MCC's support of the Class EA was contingent on certain  
13 documents being prepared and approved and implemented?

14 MR. CUMING: A. That's correct, yes.

15 Q. And I take you don't take issue with  
16 the position that MCC took at the time of the  
17 government review that there should be further work  
18 done in the area of heritage resources?

19 A. Yes, I would agree that there should  
20 be further work done.

21 Q. What I am asking is that by setting  
22 out MCC's position at the time of the government review  
23 you are not suggesting to the Board that this was an  
24 improper position that MCC took?

25 A. I wouldn't -- no, I wouldn't say it



1 is an improper position. I would suggest that there  
2 are deficiencies noted by the Ministry in the Class EA,  
3 and the debate that I would have is, should those  
4 deficiencies be met by further guidelines or should  
5 they be part of the Class EA, I presume that the MCC  
6 went with the position that they would be content with  
7 guidelines.

8 Q. Following from that then, you are not  
9 suggesting, are you, that MCC should not have taken  
10 that position at the time of the government review?

11 Let me flip it around. If MCC had come  
12 in and said during the government review: We have no  
13 concerns with this Class EA, then I take it you would  
14 have thought that would have been an inappropriate  
15 approach?

16 A. I would agree that that would have  
17 been an inappropriate approach.

18 Q. I believe you have set out in the  
19 evidence that MCC's position has been or was at the  
20 time of the government review that draft guidelines  
21 needed to be put into place in order to address  
22 heritage concerns?

23 A. I would suggest that MCC sees the  
24 value in draft guidelines. The question is raised,  
25 though, should those guidelines properly reside in the

1 Class EA. I'm uncertain as to the status of some of  
2 those guidelines, appeal mechanisms and so on.

3 Q. Now, whether or not the guidelines  
4 exist in the EA itself or outside the EA, I take it  
5 what you are telling the Board is that guidelines of  
6 some sort should be incorporated as part of the timber  
7 management planning process?

8 A. I think what the Association is  
9 saying is that the content of the guidelines in  
10 December 1989 certainly suggest that certain sections  
11 of that could be incorporated quite easily into the  
12 Class EA in terms of identifying certain components of  
13 heritage features.

14 There is certainly the need in any  
15 planning process to develop technical guidelines and so  
16 on, but I believe that they should quite clearly have  
17 spelled out the status of those guidelines or technical  
18 manuals and how they relate in this case to the Class  
19 EA.

20 Q. Okay. Leaving aside the mechanics of  
21 how they may relate to the Class EA, there have been a  
22 number of other guidelines that we have talked about in  
23 this whole process and how they would be incorporated  
24 into timber management planning.

25 Is it fair to say that what your

1 Association is looking for then is, first of all, you  
2 have a concern about not being involved in the review  
3 of the final guidelines?

4 You have come before the Board and  
5 expressed some concern about where that process is at  
6 and, secondly, you would like to see some guidelines  
7 incorporated as part of this approval that are more  
8 than draft guidelines that are finalized?

9 A. We would like to see certain  
10 guidelines acceptable I think to the heritage community  
11 and we have as yet got no guarantees that there are  
12 acceptable guidelines to the heritage community out  
13 there.

14 We would, I think, in going back and  
15 reassessing a whole approach to those draft guidelines  
16 in this Class EA, we believe that there are certain  
17 components that should actually be featured in the  
18 Class EA. We don't necessarily believe that -- think  
19 that a deferral to guidelines in every Class EA is a  
20 good thing.

21 This is going to set a precedent for  
22 future Class EA planning. We would certainly like to  
23 see at least the principles and some of the expressions  
24 of interest in heritage conservation put into the Class  
25 EA.

1                   Now, whether that means formally  
2     incorporating the guidelines whenever they are produced  
3     as part of the Class EA, that might be certainly  
4     something that would be acceptable.

5                   Q.   If I told you that MCC continues to  
6     take the position that its support of the approval of  
7     this undertaking is contingent upon certain documents  
8     being finalized and implemented in the field, including  
9     guidelines, you wouldn't have any information to  
10    disagree that position; would you?

11                  A.   I mean, I certainly don't have any  
12    information to disagree with that.

13                  I think there is a general concern of  
14    supporting the document, the Class EA document that  
15    makes no reference or little reference to heritage  
16    features, is generally concerned for future Class EA  
17    work of any proponent, whether it is a municipality or  
18    provincial government.

19                  Again, it is what happens to those  
20    guideline. If those guidelines are good guidelines,  
21    they are acceptable and they are actually incorporated  
22    and form part of the Class EA document, that may be  
23    more than an acceptable route to go.

24                  Q.   What I am suggesting to you is that  
25    MCC's support of the Class EA has always been and still



1 is contingent on guidelines being implemented in the  
2 field, and what I am suggesting to you is that you  
3 don't have any information to the contrary that that  
4 isn't MCC's position?

5 A. That's right.

6 Q. Thank you.

7 MS. SEABORN: Thank you, Madam Chair.  
8 Those are all my questions.

9 MADAM CHAIR: Thank you, Ms. Seaborn.

10 Ms. Blastorah?

11 MS. BLASTORAH: My name is Catherine  
12 Blastorah, Mr. Cuming and Ms. Balmer. I am acting for  
13 the Ministry of Natural Resources in this hearing and I  
14 will try and be brief.

15 As with previous counsel, I will let you  
16 choose between yourselves who to answer the questions  
17 that I am going to pose.

18 CROSS-EXAMINATION BY MS. BLASTORAH:

19 Q. I would just like to pick up a little  
20 on the point that Ms. Seaborn left off with, which is  
21 the requirement or your perceived requirement that  
22 something further be done in terms of putting this  
23 information either into the EA document or before the  
24 Board.

25 Am I correct in saying that your concern

1 with saying that you feel it would be appropriate,  
2 leaving aside the question whether it is necessary, it  
3 would be appropriate to include the guidelines in the  
4 EA document -- am I correct that your concern is that  
5 in making its determination on whether or not to  
6 approve this undertaking you are concerned that the  
7 Board have adequate information in relation to heritage  
8 cultural resources -- or cultural heritage resources to  
9 determine whether the proposal that's put before them  
10 for approval is adequate?

11 So your concern is that the Board have  
12 adequate evidence?

13 MR. CUMING: A. Adequate evidence...

14 Q. In relation to how heritage resources  
15 will be dealt with during timber management planning?

16 A. We would like to be assured, yes,  
17 that the Board does have adequate evidence.

18 Q. So when you say it should be included  
19 in the EA document, that would be your reason for  
20 saying that you feel it would be appropriate to include  
21 it in order to put that evidence before the Board?

22 A. I think in terms of a sound Class EA  
23 document that the processes and procedures for dealing  
24 with heritage resources and features should be in some  
25 way, shape or form described in the Class EA document.

1           Q. When you say the Class EA document,  
2 do I take you it you mean the Class EA including all  
3 the evidence before the arbitrators who is making the  
4 decision in relation to the approval?

5           A. Yes, I suppose that's correct.

6           Q. Thank you. Now, I would just like to  
7 go back briefly and touch on some other points that  
8 came up during your evidence.

9           First of all, am I correct that neither  
10 of you individuals were actually involved in the  
11 workshops that took place in relation to this  
12 guideline? Is that correct?

13           MS. BALMER: A. That's correct.

14           Q. It was actually Dr. -- is it Dr. or  
15 Mr. Williamson?

16           MR. CUMING: A. Dr. Williamson.

17           Q. Dr. Williamson from your Association  
18 who was involved?

19           A. (Nodding affirmatively)

20           Q. It has pointed out that he is a  
21 member of your task force.

22           Now, I would also ask you to agree that a  
23 wide range of reviewers from the heritage community did  
24 review the consultation draft that you included in your  
25 witness statement. Would you agree with that?

1                   A. I know that there were a large number  
2 of reviews circulated. I don't know of their comments  
3 or circumstances.

4                   Q. But you would agree that a large  
5 number of people did receive that document and have an  
6 opportunity to review it and comment if they chose?

7                   A. I did comment that I understand that  
8 a large number of reviews were circulated. Whether  
9 they were received or whether they were commented on I  
10 can't reply.

11                  Q. If I could ask you to turn to the  
12 consultation draft which is Exhibit C to your witness  
13 statement and specifically to the covering letter that  
14 was included with that document.

15                  I note there that the consultant, Mr.  
16 Ogilvie, who sent out the consultation draft -- I will  
17 just wait for the Board to find the page.

18                  Mr. Ogilvie did ask the people who were  
19 receiving this consultation draft to inform him if you  
20 felt or any of the people receiving the consultation  
21 felt that anyone else -- they were aware of anyone else  
22 who should be given the opportunity to comment on it.  
23 You see that in the letter?

24                  A. Okay. Second paragraph:

25                  "If you are aware of other groups who



1                   might have an interest interested in  
2                   reviewing these guidelines, please let us  
3                   know and we will see that they receive a  
4                   copy."

5                   Q. Did the Canadian Association of  
6 Professional Heritage Consultants advise Mr. Ogilvie of  
7 anyone they felt had been left out or who should have  
8 received this consultation --

9                   A. They may well have done it.

10                  Q. Are you aware whether those  
11 individuals did in fact receive the document?

12                  A. I know of one because I believe I was  
13 one that was circulated.

14                  Q. And you did in fact get the document?

15                  A. I did get the document.

16                  Q. Based on that then, can we take it  
17 that you are satisfied that a broad representation of  
18 the heritage community did have an opportunity to  
19 comment on this draft?

20                  A. Well, yes. I would have to take --  
21 assuming the mail works okay, yes.

22                  Q. Thank you. I also note in the  
23 consultation draft in the same letter, paragraph 4,  
24 that Mr. Ogilvie notes that:

25                  "Upon receipt of the written comments

1 from the reviewers the Steering Committee  
2 will revise the document for publication  
3 by the Ministry of Natural Resources and  
4 the Ministry of Culture and  
5 Communications."

6 So would you agree with me that comment  
7 in his covering letter would indicate that the steering  
8 committee would be dealing with any comments that were  
9 received and would use those comments in redrafting the  
10 document?

11 A. It certainly seems to read that way,  
12 yes.

13 Q. So would you agree it would not be  
14 unexpected then that any summary or condensation of  
15 those comments would not necessarily go out to the  
16 general mailing list, but in fact be forwarded to the  
17 steering committee? Would you agree with that?

18 A. I suspect yes. For example, our  
19 written comments would go presumably to the reviews --  
20 sorry, from the reviews it would to the steering  
21 committee, yes.

22 Q. Are you aware of whether members of  
23 the steering committee did in fact receive that kind of  
24 summary of the comments...

25 A. I really don't know.

1 Q. You didn't make any inquiries?

2 A. No, I didn't.

3 Q. Now, looking at the members of the  
4 steering committee who are listed on the third page of  
5 your -- I believe it is the fourth page -- well, it is  
6 (i) in any event of the consultation draft, the  
7 steering committee is listed there.

8 I take it that you know -- I'm sorry,  
9 have you located that Mr. Martel? It is (i) which is  
10 about the forth or fifth page in of the witness  
11 statement.

12 MR. CASSIDY: Just after the letter we  
13 were just referring to.

14 MS. BLASTORAH: It is the next page in.

15 Q. I take it, Mr. Cuming or Ms. Balmer,  
16 that you are familiar with Chris Andreae?

17 MR. CUMING: A. Yes, I am.

18 Q. A member of the steering committee.  
19 Are you also familiar with Dr. Jean Luc Pilon?

20 A. No, I'm not.

21 Q. Are you familiar with Mr. Bill  
22 Wood -- Fox, I beg your pardon, of the MCC?

23 A. Yes, I am.

24 Q. Are you familiar with Mr. William  
25 Ross from MCC?

1 A. I know him, we know Bill.

2 Q. I take it you are also obviously  
3 familiar with Mr. Williamson. Can I assume that?

4 A. Dr. Williamson yes.

5 Q. Dr. Williamson, I beg your pardon.

6 Now, those people have been, in the case  
7 of Mr. Andreae, sitting on the steering committee,  
8 other people are on the steering committee and Mr.  
9 Williamson we just heard has attended the most recent  
10 meeting of the steering committee.

11 Would you agree with me that the  
12 involvement -- well, first of all, would you agree that  
13 those people have some expertise or are recognized as  
14 having some expertise in the heritage resources field?

15 A. Dr. Williamson?

16 Q. Yes, beginning with Dr. Williamson.

17 A. Yes, I would say he has substantial  
18 expertise in archaeological conservation and resources.

19 Q. Would you agree that Dr. Chris  
20 Andreae or Mr., I'm not sure which it is, has some  
21 expertise in his field as well?

22 A. I understand he didn't attend the  
23 last steering committee.

24 Q. No, I am speaking of his involvement  
25 generally.



1 A. Yes.

2 Q. Would you agree with me that the  
3 involvement of those individuals on the steering  
4 committee would ensure that the guidelines which are  
5 ultimately produced by the steering committee are  
6 acceptable to the heritage resources community as  
7 represented by those individuals?

8 A. I know Dr. Williamson is in the room  
9 right now glaring at me. I would suggest that they do  
10 represent, both Chris Andreae who is not now in the  
11 country, but Dr. Williamson certainly has a very keen,  
12 clear understanding of archaeological resource  
13 assessment and methodology and so on.

14 Q. Would you agree with me then that Dr.  
15 Williamson's involvement would allow for an opportunity  
16 for the heritage resources community as represented by  
17 him to put forward those ideas?

18 A. Ann and I just discussed whether --  
19 as I understand it, Dr. Williamson was representing  
20 ASI...

21 Q. I'm sorry, I couldn't hear you.

22 A. He was representing Archaeological  
23 Services Incorporated.

24 Q. Well, sorry, I don't want to cut you  
25 off.

1                   A. He presumably was primarily  
2     commenting or responding or commenting on  
3     archaeological resource matters and not necessarily  
4     built heritage and not necessarily cultural landscape.  
5     So I have absolutely every confidence that he could  
6     represent the archaeological interest.

7                   I believe he has a very keen awareness of  
8     both the heritage and cultural landscape components. I  
9     don't know whether he would necessarily be comfortable  
10    in speaking necessarily to his expertise in those areas.

11                  Q. Would you agree that he could if he  
12    had some concerns about matters that were included in  
13    the draft, the draft that he was reviewing, he could  
14    certainly take the opportunity to consult with yourself  
15    or Ms. Balmer or other members of your task force or  
16    the Board of the CAPHC and obtain whatever comments he  
17    felt appropriate to include in his own comments on the  
18    draft?

19                  A. I think it's a little bit difficult  
20    to say.

21                  You will note in that March the 6th, 1990  
22    letter that it went out under Dr. Williamson's  
23    signature and he certainly hasn't reported back to me  
24    or Ann Balmer, as I understand, on whether each of  
25    those concerns listed on those few pages have been

1 addressed in the new guidelines or the revised draft.

2 Q. Okay. So you haven't heard from Dr.  
3 Williamson on that and you, I take it, for whatever  
4 reason didn't contact him and ask whether that was the  
5 case or not?

6 A. Yes. I was not aware of whether the  
7 revised draft addressed any of these issues.

8 Q. Okay. I would like to show you a  
9 copy of a letter at this point and ask you whether you  
10 have seen this letter before or were aware of its  
11 existence.

12 Madam Chair, I would ask that this letter  
13 be marked as the next exhibit. If you would like a  
14 minute to review it, please take your time. It is not  
15 a long letter.

16 MADAM CHAIR: This will be Exhibit 1798.

17 Will you identify it, please, Ms.  
18 Blastorah.

19 MS. BLASTORAH: It is a letter dated  
20 September 19th, 1990 addressed to Mr. Richard Unterman,  
21 President of the Canadian Association of Professional  
22 Heritage Consultants signed by Robert Montgomery,  
23 Director of the Heritage Branch of the Ministry of  
24 Culture and Communications.

1 ---EXHIBIT NO. 1798: Letter dated September 19th, 1990  
2 addressed to Mr. Richard  
3 Unterman, President of the  
4 Canadian Association of  
5 Professional Heritage Consultants  
6 signed by Robert Montgomery,  
7 Director of the Heritage Branch  
8 of the Ministry of Culture and  
9 Communications.

6 MS. BLASTORAH: Please let me know when  
7 you are finished reviewing it, Mr. Cuming and Ms.  
8 Balmer.

9 Q. You have an opportunity to review  
10 that. Have you seen this letter before?

11 MR. CUMING: A. Yes, I believe I have.  
12 I think it was circulated at a Board meeting, probably  
13 in October 1990.

14 Q. You have indicated in your answers to  
15 interrogatories that Mr. Unterman is a member of the  
16 CAPHC Board; correct?

17 A. That's correct.

18 Q. Now, you will agree with me that this  
19 letter notes that the development of guidelines for the  
20 protection of heritage resources for use in timber  
21 management planning was with a public consultative  
22 process. I think you would agree that was the case?

23 A. (nodding affirmatively)

24 Q. It also notes that a final draft of  
25 the guideline document was circulated widely for



1 comment by MNR's consultant and that comments were  
2 actively solicited for three months thereafter.

3 Would you agree with me that would be  
4 comments on the consultation draft which you have  
5 included in your witness statement?

6 A. Yes, it was the consultation draft.

7 Q. And would you agree that Mr.  
8 Montgomery notes in paragraph 3 that discussions during  
9 the workshops and subsequently have resulted in a  
10 five-part implementation strategy including the  
11 guidelines document and heritage resources database  
12 project, initiatives to enhance the heritage  
13 community's ability to participate in the planning  
14 process, and MNR compliance and effectiveness  
15 monitoring program and training programs and packages  
16 for the timber management planning teams; correct?

17 A. That's correct.

18 Q. And he goes on at the top of page 2  
19 to indicate --

20 A. Sorry, can I just...

21 Q. Yes.

22 A. I mean I would comment that he says  
23 that:

24 "Our discussion..." and I presume that's  
25 MNR,

1 "...have resulted in a five-part  
2 implementation strategy."

3 Are you asking me to accept that as a  
4 fact?

5 Q. I am just asking you to agree that  
6 that's what the letter says.

7 A. Sure.

8 Q. And MCC is obviously aware of that?

9 A. Yes.

10 Q. He indicates at the top of the second  
11 page of this letter to Mr. Unterman that if Mr.  
12 Unterman or CAPHC wishes further information -- or  
13 details, rather, about evidence filed at the hearings -  
14 and that's a reference to these hearings - and about  
15 the five-part implementation strategy, he recommends  
16 that they contact Mr. Gord Rogers, project manager of  
17 the timber management project at the Ministry of  
18 Natural Resources.

19 Are you aware of whether Mr. Unterman did  
20 in fact contact Mr. Rogers to obtain further  
21 information or details?

22 A. I really can't recall.

23 Q. I take it neither you nor Mr. Balmer  
24 contacted Mr. Rogers in seeking further information on  
25 this?

1 A. No, I didn't.

2 Q. Ms. Balmer, you didn't either?

3 MS. BALMER: A. No.

4 Q. Now, I am aware and perhaps you can  
5 confirm for me that you, Mr. Cuming - I don't think Ms.  
6 Balmer was there - I believe, Mr. Cuming, you had in  
7 fact attend a meeting in Temagami April on 11th this  
8 year?

9 MR. CUMING: A. That's correct, yes.

10 Q. At which Mr. Gord Rogers was present?

11 A. That's correct, yes.

12 Q. It is my understanding that Mr.  
13 Rogers offered at that time to meet with you and Ms.  
14 Balmer or other members of your Association to discuss  
15 the status of the resource -- the Cultural Heritage  
16 Resource Guidelines and you did not take the  
17 opportunity to have that meeting for whatever reason?

18 A. That's correct. Gord Rogers spoke to  
19 me and indicated -- asked me whether -- if I or Ann  
20 Balmer wanted to sit down and discuss the update before  
21 this hearing he would be happy to meet us.

22 My understanding that we have since --  
23 well, we are in the process of responding in a letter  
24 that will be going out to Gord Rogers indicating we  
25 would be -- it is a little bit late now, but the

1 Association and the Board would be happy to presumably  
2 discuss the guidelines and our comments of March 1980.

3 Q. And you are aware that the steering  
4 committee is still functioning and that Mr. -- I assume  
5 you are aware of that through Mr. Williamson?

6 A. I understand that the steering  
7 committee met very recently with respect to those  
8 guidelines.

9 MS. BLASTORAH: Those are my questions,  
10 Madam Chair.

11 I would just remind the Board of the  
12 undertaking given by the Ministry of Natural Resources  
13 quite some time ago in the hearing that the final draft  
14 of these guidelines, when in fact there is a final  
15 draft, will be put before the Board and will be dealt  
16 with appropriately at that time through putting a  
17 witness in reply to be cross-examined on them or  
18 whatever.

19 But we did undertake some time ago to  
20 provide the final document when in fact it is complete  
21 which I can advise the Board it is not at this point,  
22 although, as you have heard indirectly, there is still  
23 progress in that regard.

24 MADAM CHAIR: Thank you, Ms. Blastorah.

25 Mr. Cuming and Ms. Balmer, is there



1 anything else you would like to say to the Board?

2 MR. CUMING: I would just like to add  
3 that if indeed MNR does submit its guidelines to the  
4 Board later on in this process, I don't know whether  
5 it's -- I am not sufficiently conversant with the Board  
6 procedures, whether we would have an opportunity to  
7 return to the Board to make some comments on those  
8 guidelines.

9 I think the Association, having been  
10 involved made considerable commitment to those  
11 guidelines in terms of reviewing them and preparing  
12 them, are certainly interested in MNR's guidelines when  
13 when do appear. If they are presented to the Board in  
14 support of this Class EA we would very much like to  
15 have the opportunity to present to the Board again if  
16 necessary, unless you feel our concerns expressed now  
17 in our witness statement are sufficient to give the  
18 Board guidance in the adequacy of those guidelines.

19 MADAM CHAIR: Well, certainly I think  
20 your witness statement is very clear in what you see to  
21 be the manner of the guidelines and what you would like  
22 to see in the content of the guidelines.

23 There is nothing in our procedures that  
24 would prevent you from communicating to the Board  
25 further views on this matter.

1                   Now, in the event that you did that we  
2                   would probably require you to come back and be  
3                   questioned by the parties as you have been today, but  
4                   Mr. Martel and I assume from this discussion that you  
5                   will in fact be looking at any revised guidelines that  
6                   might exist today.

7                   Certainly, whatever the outcome of that,  
8                   whether you feel they have satisfied the concerns of  
9                   your organization or not, you are free to communicate  
10                  in writing to the Board and if you wish to make another  
11                  appearance, we haven't done this before, but there is  
12                  nothing preventing that, although we would discuss it  
13                  with the parties before we made any of those  
14                  arrangements.

15                  MS. BLASTORAH: Mrs. Koven, since these  
16                  individuals are unrepresented by counsel, I might just  
17                  take the opportunity to explain to them that if the  
18                  guidelines are in fact dealt with in reply evidence by  
19                  the Ministry of Natural Resources, they would of course  
20                  have an opportunity to cross-examine should they choose  
21                  to do so and they could seek leave of the Board to file  
22                  argument in relation to whatever their remaining  
23                  feeling would may be in relation to the evidence that  
24                  has been put before the Board through the guidelines  
25                  and reply evidence or whatever.

1                   MADAM CHAIR: All right. Thank you, Ms.  
2           Blastorah.

3                   I would ask both Mr. Pascoe and yourself  
4           to keep in mind updating the organization about the  
5           progress of the hearing, and if this matter comes up  
6           for discussion again you will be informed ahead of  
7           time.

8                   MR. CUMING: We would just like to take  
9           the opportunity to thank the Board for listening to our  
10          presentation this morning.

11                  MADAM CHAIR: We thank you for all the  
12          time and effort that went in to getting this evidence  
13          before us. Thank you.

14                  We will adjourn now and we will be back  
15          at nine o'clock tomorrow morning to hear from Dr. Ross  
16          Henderson and I believe his evidence will be led by...

17                  MR. PASCOE: Possibly Mr. Lindgren, but  
18          they hadn't determined that last Friday.

19                  MADAM CHAIR: All right. See you back  
20          here tomorrow morning.

21  
22          ---Whereupon the hearing was adjourned at 12:30 a.m.,  
23          to be reconvened on Tuesday, April 30, 1991,  
24          commencing at 9:00 a.m.

25          [c. copyright 1985]













